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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
(HONORABLE THOMAS J. WHELAN)

UNITED STATES OF AMERICA,) CASE NO. 07CR3131
10)
Plaintiff,)
11 v.) STATEMENT OF FACTS AND
12 CARISSA NORIEGA,) MEMORANDUM OF POINTS AND
13 Defendant.) AUTHORITIES IN SUPPORT OF
) DEFENDANT'S MOTIONS.
)

I.

FACTUAL HISTORY

On December 19, 2007, the government secured an indictment against Ms. Noriega. In the indictment, the government alleges violations of 21 U.S.C. §§ 952 and 960, importation of cocaine, along with an alleged violations of 21 U.S.C. § 841(a)(1), Possession of cocaine with intent to distribute.

II.

MOTION TO COMPEL DISCOVERY

Ms. Noriega requests the following discovery. Her request is not limited to those items that the prosecutor knows of. It includes all discovery listed below that is in the custody, control, care, or knowledge of any “closely related investigative [or other] agencies.” *See United States v. Bryan*, 868 F.2d 1032 (9th Cir. 1989).

(1) Brady Information. The defendant requests all documents, statements, agents' reports, and tangible evidence favorable to the defendant on the issue of guilt and/or

1 which affects the credibility of the government's case. Under *Brady v. Maryland*, 373 U.S.
2 83 (1963), impeachment as well as exculpatory evidence falls within the definition of
3 evidence favorable to the accused. *United States v. Bagley*, 473 U.S. 667 (1985); *United*
4 *States v. Agurs*, 427 U.S. 97 (1976).

5 (2) Any Proposed 404(b) Evidence. The government must produce evidence
6 of prior similar acts under Fed. R. Crim. P. 16(a)(1) and Fed. R. Evid. 404(b) and any prior
7 convictions which would be used to impeach as noted in Fed. R. Crim. P. 609. In addition,
8 under Fed. R. Evid. 404(b), "upon request of the accused, the prosecution . . . shall provide
9 reasonable notice in advance of trial . . . of the general nature" of any evidence the
10 government proposes to introduce under Fed. R. Evid. 404(b) at trial. The defendant requests
11 notice two weeks before trial to give the defense time to investigate and prepare for trial.

12 (3) Request for Preservation of Evidence. The defendant requests the
13 preservation of all physical evidence that may be destroyed, lost, or otherwise put out of the
14 possession, custody, or care of the government and which relate to the arrest or the events
15 leading to the arrest in this case. This request includes, but is not limited to, the results of
16 any fingerprint analysis, the defendant's personal effects, and any evidence seized from the
17 defendant or any third party.

18 (4) Defendant's Statements. The defendant requests disclosure and production
19 of all statements made by the defendant. This request includes, but is not limited to, the
20 substance of any oral statement made by the defendant, Fed. R. Crim. P. 16(a)(1)(A), and any
21 written or recorded statement made by the defendant. Fed. R. Crim. P. 16(a)(1)(B)(i)-(iii).

22 (5) Tangible Objects. The defendant seeks to inspect and copy as well as test,
23 if necessary, all other documents and tangible objects, including photographs, books, papers,
24 documents, alleged narcotics, fingerprint analyses, vehicles, or copies of portions thereof,
25 which are material to the defense or intended for use in the government's case-in-chief or
26 were obtained from or belong to the defendant. Fed. R. Crim. P. 16(a)(1)(E).

27 (6) Expert Witnesses. The defendant requests the name, qualifications, and a
28 written summary of the testimony of any person that the government intends to call as an

¹ expert witness during its case in chief. Fed. R. Crim. P. 16(a)(1)(G).

(7) Witness Addresses. The defendant requests access to the government's witnesses. Thus, counsel requests a witness list and contact phone numbers for each prospective government witness. Counsel also requests the names and contact numbers for witnesses to the crime or crimes charged (or any of the overt acts committed in furtherance thereof) who will not be called as government witnesses.

7 (8) Jencks Act Material. Ms. Noriega requests production in advance of trial
8 of material discoverable under the Jencks Act, 18 U.S.C. § 3500. Advance production will
9 avoid needless delays at pretrial hearings and at trial. This request includes any “rough”
10 notes taken by the agents in this case. This request also includes production of transcripts
11 of the testimony of any witness before the grand jury. *See* 18 U.S.C. § 3500(e)(1)-(3).

20 (10) Residual Request. Ms. Noriega intends by this discovery motion to invoke
21 his rights to discovery to the fullest extent possible under the Federal Rules of Criminal
22 Procedure and the Constitution and laws of the United States.

III.

MOTION FOR LEAVE TO FILE FURTHER MOTIONS

25 Ms. Noriega has received in discovery 29 pages of discovery. Therefore, given
26 defense counsel's upcoming schedule, Ms. Noriega needs a bit more time to determine
27 whether there are further motions to be filed in this case. Defense counsel requests leave to
28 file further motions.

1 VI.
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4 **CONCLUSION**
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6 Ms. Noriega requests this Court grant his motions.
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8 Respectfully submitted,
9
10 /s/ *Frederick M. Carroll.*
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13 Dated: January 24, 2008
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15 **FREDERICK M. CARROLL**
16 Attorney for Ms. Noriega
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